

INTRODUCTION

The Tulare County District Attorney's Office (TCDAO) and the Tulare County Health & Human Services Agency/In Home Supportive Services (HHSA/IHSS) submit the following plan for the detection and investigation of fraud in the IHSS Program for FY 2010/2011.

The proposed plan does not differ in scope from the plan submitted in the fall of 2009 for the current year funding. We have been operating just a few short months and not all of the aspects of the current plan have been put into place. For FY 2010/2011, we plan to continue to work on full implementation of the plan.

I. IHSS OVERPAYMENTS/UNDERPAYMENTS

The Fraud Detection and Investigation plan has multiple levels of scrutiny to detect both over and underpayments in each IHSS case as follows:

- The individual IHSS staff person assigned to each case has been assigned primary responsibility to detect over and underpayments in the cases under his/her responsibility.
- The Utilization Review Committee will review a sampling of cases for over or underpayments.
- The Quality Assurance Review is the third level of scrutiny for over and underpayments.
- A fraud referral is made to the TCDAO in those cases where the overpayment is not the result of an administrative error.
- Each referral is tracked by IHSS Quality Assurance staff who will document the outcome of the DA investigation.

Schedule D is attached and shows a total of 61 referrals to the District Attorney's Office. The Tulare County District Attorney began receiving a few referrals in January, 2010, but the bulk came in February, 2010. During that month, 43 referrals for fraud were submitted to our office. Each month thereafter, at least one and up to six referrals were submitted. By the end of the fiscal year, a total of 61 referrals had been submitted to our office from the County Health & Human Services Agency, IHSS Department.

II. FRAUD REFERRALS/OUTCOMES

All cases of suspected IHSS fraud are being referred to TCDAO using the IHSS Referral for Action on Suspected Fraud form, enclosed as Enclosure C. This form is subject to revision by both IHSS Program staff and DA Investigators. One investigator was assigned in late January and a second

was added in May, 2009. We were able to complete 32 investigations into the 61 referrals, leaving 29 open investigations at the end of the fiscal year. Out of the 32 completed investigations, our investigators referred 24 cases to the District Attorney's Office for prosecution. It should be noted that within the 24 cases, there may be multiple defendants charged in each case.

The outcome of these referrals has been very positive. We have a 100% conviction rate on all cases filed. We have convictions in 8 cases as of June 30, 2010 and another 10 cases are pending in court in various stages.

On May 12, 2010, the first IHSS defendants pled guilty. To illustrate the types of cases we are seeing, we include the facts here.

In a seven count complaint, 3 defendants, mother, son and daughter, were charged with 3 counts of IHSS fraud each, one defendant was additionally charged with food stamp fraud; one defendant was additionally charged with welfare fraud; and two defendants were also charged with perjury. This case illustrates how fraud in one social services program will often spill over into fraud into other programs. In this case the IHSS recipient mother was both hospitalized and incarcerated for a period of time during which she was not eligible to continue to receive funds. Her care providers, her son and daughter, continued to be paid for providing care during the time the recipient was hospitalized and incarcerated. The son, while he was incarcerated, continued to receive welfare benefits and food stamps. And the IHSS recipient continued to use her son's food stamp card while he was incarcerated. All defendants pled to felony counts committing over \$10,000 in IHSS fraud. The son was sentenced to a 3 year suspended state prison sentence for IHSS Fraud, Welfare Fraud and perjury; the mother pled guilty to felony IHSS Fraud & Food Stamp Fraud; and the daughter pled guilty to IHSS Fraud. The three were ordered to pay restitution in excess of \$6,000 and the providers are now ineligible to be a provider for 10 years.

TCDAO sends notification of all IHSS Fraud dispositions to IHSS Program staff so that the judgment can be entered into the rolls of those unqualified to participate in the IHSS program in the future.

TCDAO continues to maintain records of investigations, case filings and dispositions and provides a monthly report to IHSS Program staff.

III. COLLABORATION WITH DISTRICT ATTORNEY'S OFFICE

As noted in our previous application, the TCDAO has had a long and successful working relationship with the Department of Health & Human Services, which administers the IHSS Program.

TCDAO Investigators work with HHSA/IHSS social workers and payroll personnel on an almost daily basis to obtain information on payroll, time sheets, and past case reviews. In addition TCDAO IHSS Program Investigators work with Welfare Fraud investigators closely when there is any overlap in the suspected fraud. A Fraud Referral Form is being utilized by HHSA/IHSS to refer suspected cases of fraud to the TCDAO.

Due to the recent implementation of the fraud program, HHSA/IHSS and TCDAO staff have not yet been able to develop policies although a Memorandum of Understanding is in the process of being approved.

TCDAO Investigators have met with HHSA/IHSS Social Workers at two staff meetings within the last three months. At these meetings, DA Investigators described the capabilities the TCDAO has in regards to surveillance and investigation. In addition, Investigators described indicators of fraud the Social Workers might encounter in the field and the type of information and documentation would be needed from them in order to investigate IHSS Program fraud cases. Social Workers requested quarterly training on various fraud related issues.

In addition, DA Investigators have been attending the Public Authority Provider Orientation on almost a weekly basis. DA Investigators assist Public Authority staff with the fraud portion of the orientation for new providers and the DA Investigators answer any questions the providers might have. There are usually about 60 providers attending each meeting and there are usually about 10-15 questions asked. The DA Investigators use the state mandated DVD and have been met with a welcome reception from the providers at the orientation.

DA Investigators have also worked with the Public Authority staff to review the background requirements and crime codes associated with fraud.

IV. COUNTY COLLABORATION WITH CDHCS AND CDSS

The collaboration with the state agencies has not developed as expected, primarily because there appears to be just one CDHCS investigator for all central valley counties and that investigator is located in Kern County. The CDSS investigators located in Fresno handle a very large caseload, however, TCDAO investigators work with them to assist with retrieval of State issued warrants. Our investigators have not been able to meet on a regular basis with the State investigators, but are will request their assistance with the larger cases as they arise.

The DA Investigators met with Fresno County IHSS Program Fraud unit to obtain a background on the program and to discuss common fraud types, problems encountered and solutions that have worked for that County. The DA Investigators plan to attend the California Welfare Fraud Investigators Association in October of this year. That training will include segments on IHSS Program fraud.

The California District Attorney's Association is planning training on Public Assistance Fraud, which will include IHSS Program Fraud, for all District Attorney prosecutors and investigators. This will take place in the spring of 2011.

V. MECHANISM FOR TRACKING/REPORTING IHSS FRAUD DATA AND ACTIVITIES

TCDAO continues to track investigations and outcomes and will collaborate with IHSS Program staff to provide an annual outcomes report, due by August first of each year. TCDAO uses a computer program, Damian, which stores all information in electronic form. The state report will identify activities, data and outcomes associated with Tulare County's efforts to mitigate, prevent, detect, investigate and prosecute IHSS fraud during the previous fiscal year.

VI. CURRENT ANTI-FRAUD ACTIVITIES RELATED TO IHSS PROGRAM

Tulare County currently engages in the following anti-fraud activities. These include all of the activities which were proposed in our previous application for fiscal year 2009/2010. Due to the recent implementation of the program, not all of these activities have been engaged in fully, but we expect to implement all within the 2010/2011 fiscal year.

- No Time Sheet Activity & 300 Hour report monitoring.
- Quarterly Death Match reviews.
- Targeted unannounced home visits.
- Fraud referrals to DHCS.
- Fraud referrals to TCDAO.
- Targeted 6 week reviews of new IHSS cases.
- IHSS fraud disseminated on DA and County websites.
- Multi-disciplinary training.
- Development of anti-fraud materials.
- Participation on Elder Death Review team.
- Participation in Provider Orientation.
- Utilization Review Committee fraud review.
- Recipient signature & timesheet audit review.

- Collaboration between HHSA/IHSS & TCDAO.

The fiscal year funding for 2009/2010 enabled us to purchase surveillance equipment which is now being put to good use. In one case, an internet pole camera was utilized to conduct surveillance on a case where it was suspected that the recipient had overstated his needs for care. The camera recorded the suspect outside his home completing tasks he had informed HHSA/IHSS Program staff that he could not do by himself. The video from the camera was used to determine that the recipient was not eligible for assistance. Felony charges have been filed against both the provider and recipient in the amount of \$63,000.

The funding also allowed us to hire a Legal Office Assistant. The DA Investigators have utilized her to enter referrals into our computerized tracking software program, Damion. She files cases, makes copies for filing and transcribes witness interviews. Having a LOA takes most of the paperwork and data entry out of the hands of the Investigators, allowing them to focus on the investigation of IHSS Program fraud.

The Investigator Aid hired with grant funds has been utilized for document retrieval and subpoena services. The document retrieval has proven invaluable as it is necessary to locate several months (in some cases years) of time sheets in the storage facility which is extremely time consuming. Unfortunately the storage of timesheets has not been very well organized and our Investigator Aid often needs to spend several days on each case, in order to retrieve the necessary paperwork for the case.

VII. COUNTY PROPOSED BUDGET FOR FUNDING

Tulare County's proposed budget is enclosed as Enclosure A. The total amount requested for the 12 month period is \$306,285. We are requesting continued funding for two District Attorney Investigators, one Investigator Aid, one Legal Office Assistant and .05 percent of an Assistant Chief Investigator.

The only additional funds we are requesting is an operations amount necessary to pay for the vehicle maintenance cost on three units and for memberships to the District Attorney Investigator Association for our two investigators. The indirect and overhead costs of fraud program, which are not included in the budget, including the prosecution of cases, will be paid for out of the District Attorney budget.

VIII. INTEGRATION OF OTHER PROGRAM INTEGRITY EFFORTS

All of Tulare County's IHSS Program integrity efforts are included into our current and proposed anti-fraud activities as related in Section VI above.

IX. ANNUAL OUTCOMES REPORT

Tulare County has submitted an annual outcomes report by August 1, 2010, for the FY 2009/2010 and will submit a report by August 1, 2011 for the FY 2010/2011 as requested by the State.